

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, December 6, 2016
Time: 6:00 PM Closed Session / 7:00 PM Open Session
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:00 PM. City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli

ABSENT: Councilmember Barbadillo was not present at roll call. He arrived in Closed Session.

CLOSED SESSION

City Council convened in Closed Session to discuss four agenda items.

City Council then convened at the dais for the Open Session at 7:31 PM.

ANNOUNCEMENT

No announcement out of Closed Session.

PLEDGE

Boy Scouts Troop No. 92 led the pledge of allegiance.

INVOCATION

Vice Mayor Montano offered a prayer to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of November 15, 2016 City Council meeting

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for December 2016

The regular meeting of the Parks, Recreation and Cultural Resources Commission scheduled for December 5, 2016 was canceled and would next meet in January 2017.

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATIONS

Mayor Esteves recognized the Knights of Columbus Councils St. Elizabeth #8747 and St. John the Baptist #5796 and proclaimed the month of December as "Month of Helping People with Intellectual Disabilities." The former was accepted by two Knights from St. Elizabeth, and the latter was accepted by Mr. Gwan Alisantosa.

Milpitas Unified School District School Board member Gwan Alisantosa asked his colleague Bob Nuñez to join him at the podium to present a plaque to Mayor Esteves. Both men thanked the Mayor especially for progress that had occurred between MUSD and the City for cooperation throughout the years. Mr. Alisantosa then presented certificates to all four City Councilmembers.

Mayor Esteves presented the 2016 Exemplary City Award to City of Milpitas for the Healthy Cities Campaign from Santa Clara County Public Health, which was received by Recreation Director Renee Lorentzen, on behalf of several City departments.

PUBLIC FORUM

Voltaire Montemayor, Milpitas resident, spoke about readiness of firefighters and police officers. There was a need for citizen involvement to notice any hazards.

Ms. Hatch and two other Milpitas residents were concerned about homes where owners turned garages into living spaces causing too many cars for the number of parking spaces available on the street. Blocked driveways resulted and also interference with street sweeping, litter and no space to put trash cans out. These issues required attention from City staff and City Manager directed the residents to the Planning Director.

Michael Tsai, Milpitas resident, appreciated the last speaker's comments. There was a major need for more housing, so that's what led to garage conversions. Be fully prepared with building safety and ready firefighters. As the City expanded, there would be even more people coming in to Milpitas, so there would be a need for more police officers to be safe and secure here.

Robert Marini, Milpitas resident, referred to a lawsuit and commented that it was political. Allow voters to vote on the issue. Councilmember Giordano responded to him.

Rob Means, 1421 Yellowstone, confirmed what Ms. Giordano said, about amending his legal claim to include all five City Councilmembers (rather than his earlier filing against three members only). He commented on the pay and benefits for Milpitas police officers.

ANNOUNCEMENTS

Mayor Esteves recognized and welcomed many Boy Scouts (from various troops) in the audience, who were present to learn about local government for their citizenship badge.

He read aloud from the podium a proclamation that he had given previously to a man who was a member of the US Air Force, and had other accomplishments.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. None were reported.

Mr. Diaz stated that Councilmember Barbadillo would recuse himself from agenda items No. 2 and No. 14, due to the location of his new business office in the mid-town of Milpitas.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

City Manager Williams asked to remove agenda item no. 18 (Centerpointe project into CFD 2008) from this agenda, and staff would bring it back to the City Council in January.

Councilmember Grilli requested to place the request for a Resolution on the national heritage area (agenda item no. 9) on consent, or alternately to hear a presentation briefly at the beginning of this meeting. Mayor Esteves suggested hearing this item prior to the public hearings.

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

The City Manager requested to add Item No. 5 (General Plan Advisory Committee appointments) onto consent, referring to list of names of those appointed, distributed in the agenda packet.

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

* 4. Odor Control update

Received the monthly update of the odor control report.

- *5. General Plan Advisory Committee Approved the selection of those appointed by the Mayor and Council to serve on the General Plan Advisory Committee (list as distributed in agenda packet).
- * 7. Commission Appointments Approved the Mayor's recommendations:
- Community Advisory Commission**
Re-appointed Alternate No. 1 Michael Lee to a 2-year term to expire in January of 2019.
Re-appointed Alternate No. 2 Evan Bell to a 2-year term to expire in January of 2019.
- Economic Development Commission**
Newly appointed Jeffrey Chen as the hotel representative on the Commission to a currently vacant seat with a term that will expire in April of 2018.
- Emergency Preparedness Commission**
Moved Alternate No. 1 Jonathan Nakapalau up to a vacant voting seat as Commissioner to a term of 3 years that will expire in June of 2019.
Moved Alternate No. 2 Christine Tran up to the Alternate No. 1 seat to a 2-year term that will expire in June of 2017.
Newly appointed Vicki Young as Alternate No. 2 to a 2-year term that will expire in June 2017.
- Planning Commission**
Moved up Alternate Member Zeya Mohsin into a vacant seat to a 3-year term as a voting Commissioner that will expire in December of 2018.
Newly appointed Evelyn Chua as Alternate Member to a 3-year term that will expire in December of 2018.
- Recycling and Source Reduction Advisory Commission**
Re-appointed Alternate No. 2 Yue George Liu to a term of 2 years that will expire in October of 2018.
- Sister Cities Commission**
Re-appointed Dennis Grilli to a term of 3-years that will expire in September of 2017.
Newly appointed Michael Tsai as a voting member to a vacant 3-year term that will expire in September of 2017.
Newly appointed Jennifer Strohfus as a voting member to a vacant 3-year term that will expire in September of 2019.
Newly appointed Jim Li as Alternate No. 1 to a vacant 2-year term that will expire in September of 2018.
- Telecommunications Commission:**
Re-appointed members William Lam, Kurt Bohan, Ernesto Bautista and Alternate No. 1 Anh Bao to 2-year terms that will expire in January of 2019.
- * 8. Cancel Meeting Per recommendation of Councilmember Grilli, moved to cancel the regularly scheduled meeting of the City Council on December 20, 2016.
- *10. Fire Dept. Equipment 1. Approved the upgrade of five Bullard Thermal Imaging Cameras for the Milpitas Fire Department via an exchange program through L.N. Curtis & Sons for \$21,750.
2. Approved a budget appropriation of \$14,668 from the Equipment Fund to the Fire Department budget for the purchase of five thermal imaging cameras.
- *11. COPS Grant for 2017 1. Accepted the 2017 Citizen Options for Public Safety (COPS) Grant in the amount of \$116,306.00.
2. Approved a budget appropriation in the amount of \$116,306 into the Police Department's operating budget.
- *12. Financial Status Report Received the financial status report for the three months ended September 30, 2016.

- *14. Resolution Adopted Resolution No. 8614 setting Tuesday, January 3, 2017 as the date for a public hearing to determine whether Public Necessity, Health Safety or Welfare requires the formation of an Underground Utility District (UUD No. 6) and authorized the City Manager or his designee to notify all affected property owners as shown on the last equalized assessment roll, and all concerned utility companies of the time and place of such public hearing.
- *15. Resolution Adopted Resolution No. 8615 setting Tuesday, January 3, 2017 as the date for a public hearing to determine whether Public Necessity, Health Safety or Welfare requires the formation of an Underground Utility District (UUD No. 7), and authorized the City Manager or his designee to notify all affected property owners as shown on the last equalized assessment roll, and all concerned utility companies of the time and place of such public hearing.
- *16. Resolution 1) Adopted Resolution No. 8616 awarding a contract including one add alternate bid item to Goodland Landscape Construction, Inc. as the lowest responsible bidder submitting a responsive bid for the Jose Higuera Adobe Park Renovations Project No. 5097, in the amount of \$1,887,053.
2) Authorized the Interim City Engineer to execute contract change orders for the Jose Higuera Adobe Park Renovations, Project No. 5097, in an aggregate amount not to exceed a construction contingency of \$188,705.
3) Approved Amendment No. 1 to the Agreement with SSA Landscape Architects, Inc. in the amount of \$20,000.
- *17. Resolution 1. Waived immaterial bid irregularity for Project No. 2001.
2. Adopted Resolution No. 8617 awarding a contract to Marina Landscape Inc. as the lowest responsible bidder submitting a responsive bid for the Light Rail Median Landscaping Project in the amount of \$1,791,104.
3. Authorized the Interim Director of Engineering/City Engineer to execute contract change orders for the Light Rail Median Landscaping Project No. 2001 in an aggregate amount not to exceed the construction contingency of \$358,220.
- *18. Resolution This item (Houret Court project into CFD 2008) was removed from the agenda.
- *19. Resolution 1. Adopted Resolution No. 8618 certifying election results and adding Tract No. 10359 to Community Facilities District 2005-1 (Annexation No. 17) for the development at 1210 California Circle.
2. Approved Final Map Tract No. 10359, including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements.
3. Approved and authorized the City Manager to execute the Subdivision Improvement Agreement.
- *20. Resolution Adopted Resolution No. 8619 re-certifying the City of Milpitas' Sewer System Management Plan, including revisions to the Overflow Emergency Response Plan
- *21. Resolution Adopted Resolution No. 8620 approving standardization of Bendix King Fire Radios as the standard radio for Wildland Urban Interface Fire Incident Communications for the Milpitas Fire Department.
- *22. Resolution Adopted Resolution No. 8621 approving the purchase of Motorola Solutions, Inc. APX 8000 series radios and ancillary equipment for the Fire Department for the not-to-exceed amount of \$157,000 through a cooperative procurement contract.
- *23. Resolution Adopted Resolution No. 8622 amending the Classification Plan to adjust salary ranges for City of Milpitas unrepresented management classifications and allowing the City Manager to increase salaries at his discretion.

- *24. Resolution Adopted Resolution No. 8623 amending the Classification Plan to adjust salary ranges for City of Milpitas Part-Time Temporary Classifications effective December 25, 2016 to reflect the California minimum wage law.
- *25. Final Tract Map for 1256 Piper Drive 1) Approved final map Tract No. 10375, for a 308-unit Residential Condominiums at 1256 Piper Drive including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements.
2) Approved and authorized the City Manager to execute the Subdivision Improvement Agreement.
- *26. Amendment No. 2 Authorized the City Manager to execute Amendment No. 2 with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3, and Burbank Sanitary District Cost Sharing Agreement for the Common Interest Group in the amount not-to-exceed \$420,000.
- *27. Marylinn Dr. Sewer Rehabilitation Approved project plans and specifications and authorized advertisement for bid proposals, for Marylinn Drive, Sanitary Sewer Rehabilitation Projects No. 6115 and No. 6116. Approved and authorized the City Manager to execute an agreement with David J. Powers & Associates, in the amount of \$30,000, for Marilynn Drive, Sanitary Sewer Rehabilitation Projects No. 6115 and No. 6116, subject to approval as to form by the City Attorney.
- *28. Amendment No. 1 Approved Amendment No. 1 to the agreement with Quality Assurance Engineering Inc. doing business as Consolidated Engineering Laboratories (CEL) in the amount of \$100,000.
- *29. Amendment No. 2 Approved and authorized the City Manager to execute Amendment No. 2 to the Consultant Services Agreement with EOA Inc. for review of compliance with the Municipal Regional Permit Provision C.3 associated with development projects, with extended term and increased compensation by \$100,000 for a total amount not-to-exceed \$220,000.
- *30. Amendment No. 3 Approved the Third Amendment to the current Agreement with Burke, Williams & Sorensen, LLP for legal services regarding elimination of odors and directed the City Manager to sign the amendment.
- *31. Amendment No. 9 1) Approved Amendment No. 9 to the Master Agreement with the Santa Clara Valley Transportation Authority related to the Silicon Valley Rapid Transit Program Berryessa Extension BART Project to extend the term to January 31, 2018 and increase the agreement amount by \$750,000.
2) Approved revised Capital Improvement Program Project No. 7125.
3) Approved a budget appropriation of \$150,000 for Project No. 4265 – BART Extension Coordination and Planning.
4) Approved budget appropriations of \$1,200,000 from TADIF, \$184,563 from developers, a reduction of \$600,000, and Water Fund contribution of \$1,600,000 for Project No. 7125.

PUBLIC HEARINGS

1. 1316 South Main St. Development Project Planning Director Brad Misner introduced Planner Scott Davidson who presented the proposed project for a condominium development at 1316 South Main Street, on a half-acre site located not far from future BART station. It was for high-density residential housing in the Transit Area Specific Plan area. Tandem parking was requested for some residences and more spaces would be included than the zoning code required. Jacaranda trees would be included at the entry to the project site. A glass parapet at light wells would be included to improve safety. Public benefits were included (which the applicant could explain) totaling \$100,000 in value, with \$20,000 allocated for art and \$80,000 toward affordable housing.

Mayor Esteves asked about project details that he felt needed to be corrected in the Planning Commission staff report. He inquired about rooftop deck as open space and whether it was allowable for residents, for private use. He sought specific explanation about allocated parking spaces and quantity. The city planner said the total number of parking spaces would be 31 on site, not on the street.

Councilmember Barbadillo asked about the environmental analysis. Staff responded on what had been done regarding the Environmental Impact Report and the analysis. He further inquired about tandem parking and set-backs. Mr. Barbadillo commented further on the expectations of residents, and their concern for cutting back on set-backs. He asked additional questions about the impact on public schools.

Councilmember Grilli provided background on information from the school board's consultant on projected enrollments for public school, including for this project, as part of the Transit Area Specific Plan. The consulting architect came to the podium to review the layout and number of parking spaces.

Mr. Misner responded to Mayor Esteves, stating there would be 750 feet encroachments and 0.071 acres was part of this project.

Next, Mayor Esteves invited the applicant to give a ten-minutes presentation.

Vice Mayor Montano inquired about the open air atrium and impact of rain when it would come. She asked about bioswales - an environmentally friendly aspect to the project - as well as potential traffic impacts to a neighboring building.

Mayor Esteves next opened the public hearing at 9:45 PM, inviting speakers from the audience.

Robert Marini, Milpitas resident, commented on the drought situation and adding too many more residents. He asked the cost of the units and why some low-income units were not built within the project.

Guy Haas, Milpitas resident, was president of the Pines Homeowners Association, and he commented on the Transit Area Specific Plan and issues related to parking, especially next to a single family residential neighborhood. Cars were parking in his neighborhood as overflow.

Michael Tsai, Milpitas resident, founded YIMBY. He commended the City Council for its work to approve more housing in Milpitas. Concerns about parking at the project were important to be raised to the developer while a transit component was necessary for the TASP. He was glad to see solar panels on the roof for this project, too.

Voltaire Montemayor, Milpitas resident, talked about encumbrances, roadways, concern for room for fire exits.

Rob Means, Milpitas resident, was pleased that the developer would add PV panels and have a solar hot water heater at the building.

(1) Motion: to close the public hearing following five speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

Councilmember Grilli reported that she would support the project. She did want staff to address the matter of overflow parking issue in neighborhoods, specifically the Pines. It was a quality of life issue to address and would like to ask staff to address it.

Councilmember Giordano supported the project. In-fill developments could be difficult to plan and design. This one would meet the spirit of what was needed along the Main Street corridor.

Vice Mayor Montano felt she had pros and cons, especially with the parking issues. She would like to see more rentals in Milpitas rather than condos, and so she would not support the project.

Mayor Esteves asked for an explanation as to why the developer did not build an affordable unit within the project versus making a \$100,000 contribution.

The Mayor said this project was a good one to help with the housing shortage. The parking problem at the Pines could be addressed as a separate issue. He referred to other parking issues. He appreciated the voluntary community benefit offered by the applicant. He assumed there were no safety issues with the setbacks requested and reported that he would support the project.

(2) Motion: to adopt Resolution No. 8612 approving the Site Development Permit (P-SD14-0021), Conditional Use Permit (P-UP14-0022), Tentative Tract Map (P-MT14-0005), and Environmental Assessment (P-EA16-0007), pursuant to CEQA Guidelines 15183 and 15332 for the 18-residential unit condominium project located at 1316 South Main Street (Zhang Condos project)

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 3
NOES: 2 (Barbadillo, Montano)

Mayor Esteves asked for a correction on the park fee total dollars, to be accurately calculated and noted. Staff took note and agreed to make the correction.

The Mayor returned to Councilmembers' suggestion to bring back a review of the parking situation in the Pines and what could be done to eliminate those issues. City Manager Tom Williams responded, stating that staff would need to conduct a license plate study, and that had begun to be planned this date. Councilmember Giordano asked him to return within the next 60 days with a game plan of action.

(3) Motion: to direct staff to come back to the new City Council within 30 days with a plan of action to alleviate parking problems in the Pines neighborhood

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 5
NOES: 0

Councilmember Grilli felt that traffic violations also need to be addressed, like parking at cross walks, driveways, and fire hydrants.

2. 260 South Main St. Development Project

Planner Michael Fossati gave a summary of the proposed mixed use project in the Mid-Town Specific Plan area, for which a Specific Plan amendment was sought. He described some features on the buildings for this mixed use project at 260 South Main Street. He detailed and addressed the parking provided on site for both retail and residential needs.

Councilmember Giordano asked what was the Planning Commission's vote on this project, and staff replied it was unanimous, in favor.

Mayor Esteves asked if it was mixed use, and how many units should be residential. Planning Director Brad Misner came to the podium and reported that there was no exact number of square feet required for either segment. The City Manager said the goal was ground floor for the retail component.

Mayor Esteves asked when project developer first applied for this project and if it was subject to the City's art fee and the affordable housing requirements. Mr. Fossatti responded that this project was applied for prior to the adoption of the affordable housing fee ordinance. The Mayor asked for a list of all projects that were coming up and which ones would be subject to the affordable housing ordinance.

Councilmember Grilli was happy to see movement along Main Street, and asked what was the feedback from the neighboring businesses. Staff reported that one business owner he spoke with was very excited.

Vice Mayor Montano asked if a soundwall would be built and the planner said yes. She asked about square footage of businesses there and if the type of businesses could be specified. Staff said yes, per zoning code.

Mayor Esteves invited the project applicant to speak next.

Andrew Warner from City Ventures addressed the Council, discussing "catalyst" projects, which his company believed this South Main Street project was going to be for Milpitas. Two kilowatt solar panels on every home would be included, as an additional benefit.

Mayor Esteves felt there should be more depth to the commercial section of this building. He believed the architecture was not as high end as other buildings envisioned more for Main Street. He suggested to look at a building on Serra at Main Street.

Councilmember Giordano replied about the Mid-Town Specific Plan which talked about retail being store-front on the first floor so the building developer was limited. City Manager Williams agreed that staff may need to look at the definitions in the Mid-Town Plan on total size for retail in order to get a larger restaurant or other uses.

Mayor Esteves next opened the public hearing at 11:10 PM inviting speakers from the audience.

Voltaire Montemayor, Milpitas resident, said this development would be his neighbor, as he lived nearby. He felt it was positive.

Ganesh, a Milpitas resident, thanked the Councilmembers for their minute-detail questions. Overall, the MidTown concept was great with the vision. His concern was that there was not enough money being raised for schools. As far as commercial and R&D space, he did not see any developed here in Milpitas, where it was needed. Castro Street in Mountain View or downtown Palo Alto were good examples of how Main Street could look in Milpitas, he suggested.

(1) Motion: to close the public hearing, following two speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSTAIN: 1 (Barbadillo)

Councilmember Giordano liked this project, which would be the spark to get the Main St. corridor going.

Vice Mayor Montano was concerned about the depth of the spaces which may be too small. She would support the project and liked the idea of it being a catalyst.

Mayor Esteves said he was not happy with the project. The commercial part was only a façade for the residential behind it. He wanted to see more pedestrians, and viewed it as a bad start for Main Street improvements.

(2) Motion: to adopt Resolution No. 8613 approving Specific Plan Amendment (P-ST16-0001), Site Development Permit (P-SD16-0001), Vesting Tentative Tract Map (P-TP16-0001), and Environmental Assessment (P-EA16-0006) per CEQA Guideline 15168(c)(2) for the City Ventures townhouse-style condominium project (City Ventures) at 260 South Main Street

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 3
NOES: 1 (Esteves)
ABSTAIN: 1 (Barbadillo)

3. Public Health Goals

Director of Public Works Nina Hawk described the regulatory requirement for this report on the City of Milpitas 2016 Public Health Goals Report on Water Quality (2013-2015). Ms. Hawk introduced consultant Mary Wong and explained actions needed by the City Council.

Mayor Esteves next opened the public hearing, inviting speakers from the audience.

Voltaire Montemayor, Milpitas resident, reported that he drank water from the faucet every day.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to accept and approve the City of Milpitas 2016 Public Health Goals Report on Water Quality (2013-2015)

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

UNFINISHED BUSINESS

6. Solid Waste Contract Issues

Interim City Engineer Greg Chung addressed the City Council on follow-up topics to a prior meeting on November 14, when the award of a solid waste collection contract was made by the Council to Garden City.

Three questions remained to investigate from the November Council meeting on the solid waste contract award: (1) to report on City of Sunnyvale actions regarding use of the SMaRT Station for recycling, (2) update on the exclusive versus non-exclusive contracting for construction & debris recycling material, and (3) status of the use of the Guadalupe landfill in San Jose versus Kirby Canyon alternative landfill location for Milpitas waste disposal. Mr. Chung reported back to Council on all three matters.

Councilmember Grilli asked staff to confirm that no additional action was needed at this meeting, while negotiations continued. The interim City Engineer confirmed that fact and said that staff would come back to report to Council within six months.

City Attorney Diaz explained what may need to be done in the future, if an alternative disposal site was determined and/or if the SMaRT station was not available. Both contractors were prepared to handle waste management for the City of Milpitas, according to terms negotiated in the two contracts.

Mayor Esteves asked when the City Manager would sign the agreement with Garden City. Mr. Williams said he would sign it the following day and would notify Garden City to meet all timelines.

The Mayor next invited comments from the audience.

Voltaire Montemayor, Milpitas resident, said that regardless of the cost, the city was bound after the ballot measure.

Brock Hill, recycling contractor, addressed the revenue issue related to construction recycling. There was a shortfall over what was cheaper. He urged permitting the non-exclusive approach and not to put small businesses out of business in Milpitas.

A woman from Los Gatos said she did not want garbage brought to the Guadalupe area of San Jose. With the SMaRT station option, she asked to not send the garbage to Guadalupe but rather to use the Kirby landfill.

A man, Milpitas resident, congratulated the city on the contract with Garden City and getting it signed. This was really a step forward for the City and its residents.

Ramesh, Milpitas resident, felt competition was good. He noticed that debris haulers were not in the City of Milpitas. Construction companies and builders were the beneficiary of that recycling service but not the residents. It made sense also to use the SMaRT station in Sunnyvale.

A representative from Firma Corp., a Milpitas company that had a non-exclusive recycling agreement with the City, addressed the City Council in response to some of the comments made regarding competition among those providers.

Motion: to note receipt of the staff report given by the City Engineer with response on three topics reported back to Council on the solid waste contract

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

REPORT OF MAYOR

9. National Heritage Area

This item was heard prior to the public hearings.

Mr. Rod Diridon was asked to the podium by the Mayor. He provided a powerpoint presentation explaining a "National Heritage Area" as recognized by the U.S. Congress, for an area of national importance. The intent was to create a shared regional identity. Application must first be submitted to the National Parks Service, and that effort was underway via Santa Clara County.

He requested City Council to adopt a resolution supporting the formation of a National Heritage Area in Santa Clara County.

Vice Mayor Montano felt this was really great that the effort was underway. She asked how this organization would work with Historical Heritage Commission of Santa Clara County, which she had served on.

Mayor Esteves asked what did support or endorse mean for the City of Milpitas, in terms of the resolution requested to be adopted. Mr. Diridon responded that no financial commitment was necessary.

City Attorney Diaz advised the City Council that staff could bring back the Resolution for adoption on consent at the next meeting on December 13, since the action requested was not listed on the agenda for this meeting.

Motion: to recommend that staff return at the next meeting with a resolution of support for establishing a National Heritage Area in Santa Clara County

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

Three items were approved on consent.

ORDINANCE

13. No Smoking Ordinance No. 227.7

Economic Development Director Edesa Bitbadal expressed the goal that Council expressed at the last meeting to seek an ordinance to ban smoking at outdoor dining establishments. Staff did a review of the current smoking regulation in Milpitas, and recommended a great deal of clean-up language and the change for outdoor dining. Outreach was conducted to restaurants and hotels in Milpitas. Staff found support from many groups and businesses and no objections were raised.

Mayor Esteves invited speakers to the podium.

Two young ladies from Breathe California spoke in support of the proposed ordinance.

Jackie, a 33 year resident of Milpitas, spoke in support of the ordinance. She was a coach of youth soccer, and over the years notice an odor. She noticed a marijuana burning smell. Some people were allergic to all smoke and this would be a good law to adopt.

Tom Valore, CFO of Chamber of Commerce, whose group had heard from Breathe California recently, reported that he did not have time to formally express an opinion, while the presentation was favorably received by the Chamber.

Voltaire Montemayor, Milpitas resident, noted a lot of negatives from smoke, and it was bad especially for children.

City Attorney Chris Diaz read aloud the title of Ordinance No. 227.7, "An Ordinance of the City Council of the City of Milpitas to amend Title V, Chapter 215, to regulate smoking and tobacco product use in Outdoor Places."

(1) Motion: to waive the first reading beyond the title and introduce Ordinance No. 227.7

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to introduce Ordinance No. 227.7

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

ADJOURNMENT

The City Council meeting was adjourned at 12:13 AM on Wednesday, December 7, 2016.

The foregoing minutes were approved by Milpitas City Council on January 3, 2017.

Mary Lavelle
Milpitas City Clerk